

Date of Decision : April 19, 2007.

CORAM : HON'BLE MR.JUSTICE J.S.KHEHAR.
HON'BLE MR.JUSTICE L.N.MITTAL.

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Present : Mr.Naveen Daryal, Advocate
for the petitioner.

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J.S.KHEHAR, J. (Oral) :

The petitioner responded to an advertisement, for filling up 14 posts of Assistant Regional Directors. Out of these posts, seven were reserved to be filled up for special categories, out of which six were reserved for Scheduled Caste candidates and one for a Scheduled Tribe candidate. The petitioner responded to the aforesaid advertisement as a Scheduled Caste candidate. It is the case of the petitioner that the selection process comprised of a written test, followed by an interview. In this behalf, it is also pointed out that the name of the petitioner figured at Sr.No.5 in the merit list, amongst all the candidates. Despite the aforesaid, the petitioner was not eventually selected against the advertised posts and it is therefore, that the petitioner has approached this Court by impugning the

selection process, conducted by the respondents.

The first contention of the learned counsel for the petitioner is that, despite the fact that the advertisement invited applications for 14 posts of Assistant Regional Directors, the respondents chose to appoint 21 persons. The petitioner, therefore, vehemently contended that the entire process of selection stands vitiated. It is not possible for us to accept the instant contention at the hands of the petitioner, for two reasons. Firstly, the claim of the petitioner was considered for all the 21 posts filled up. In case, the posts filled up are beyond the advertised number of posts, then only such candidates, who have been deprived of participating in the selection process, can assail the action of the authorities, in filling up the posts in addition to the advertised posts. Since the petitioner was admittedly one of the candidates who had participated and were selected in the selection process, the instant contention cannot be raised by the petitioner. Secondly, the petitioner has not impleaded the seven candidates, appointed in excess, of the advertised posts. Before raising such a challenge, all those liable to be effected, ought to be arrayed as party respondents. For this reason also, the instant plea is not open to the petitioner.

The second contention advanced by the learned counsel for the petitioner is that, in terms of the advertisement, application forms were liable to be submitted through proper channel, whereas, a decision was taken by the respondents unilaterally to consider all application forms received, whether through proper channel or otherwise. Learned counsel for the petitioner, accordingly, vehemently contends that consideration of the candidature of all those, whose application forms were received other than through proper channel, is liable to be set aside. Unfortunately for the petitioner, the instant plea is not backed by supporting material. Through

the instant writ petition, the petitioner has only impleaded one of the selected candidates i.e. respondent no.5, namely, Narender Kumar Arya. Despite being specifically asked, learned counsel for the petitioner responded that he could not affirm whether the application form submitted by respondent no.5 was through proper channel or not. In view of the above, the second contention raised by the learned counsel for the petitioner is liable to be rejected on account of lack of material particulars.

The third contention of the learned counsel for the petitioner is that, respondent no.5 was interviewed twice over for the same selection process. In order to substantiate the instant contention, learned counsel for the petitioner has invited our attention to Annexure P-6, whereby information was furnished to the petitioner. Learned counsel for the petitioner, accordingly, invited our attention to the “Brief Profiles of the Applicants invited for interview for the post of Assistant Regional Director”, wherein, the name of respondent no.5 figured at Sr.No.3, as well as, at Sr.No.50. On account of the fact that the name of respondent no.5 figured at two serial numbers, it is the contention of the learned counsel for the petitioner that he was interviewed twice over for the same process of selection. This contention of the learned counsel for the petitioner, in our view, is wholly misconceived. The compilation brought to our notice relates to a preparation of profiles of all the candidates, who had been invited for interview. Merely because the name of respondent no.5 figured at two places in the aforesaid profile, cannot be a valid justification to accept that respondent no.5 had been interviewed twice over for the same selection process. In view of the above, we find no merit in the third contention of the learned counsel for the petitioner as well.

Learned counsel for the petitioner then invited our attention to a communication addressed by the Joint Secretary in the Ministry of Human

Resources Development of the Department of Secondary and Higher Education of the Government of India, to the Vice Chancellor of Indira Gandhi National Open Universities, New Delhi, where in an earlier meeting of the Central Universities' Vice Chancellors, held at Jawahar Lal Nehru University Campus, on 12.01.2006 (wrongly referred to as 12.12.2006 in the letter), wherein it was suggested by the visitors' office of the Ministers Representatives that guidelines be evolved whereby the outgoing/officiating Vice Chancellor is restrained from inter alia convening the process of selection. Having considered the aforesaid contention, we are of the view that in the case of the petitioner, no guidelines were actually evolved whereby an outgoing Vice Chancellor was actually restrained from convening of meeting of selection process, and as such, merely on account of the fact that the Vice Chancellor under reference had participated in the process of selection, would not vitiate the same in the absence of clear guidelines to the contrary and in the absence of any allegations of mala fides against him. It also needs to be noticed that the pleadings of the instant writ petition do not disclose the date, on which the tenure of the Vice Chancellor under reference was to come to an end. For the aforesaid reasons, it is not possible for us to accept the instant contention of the learned counsel for the petitioner.

The last contention of the learned counsel for the petitioner is that the Central Vigilance Commission has initiated an inquiry into the process of selection for the appointment to the posts under reference and as such, the respondents should have refrained from giving effect to the process of selection, inasmuch as, the appointment to the posts of Assistant Regional Director should not have been effected, till the receipt of final report from the Central Vigilance Commission . The instant contention of the learned counsel, in our view, is also devoid of merit. As and when, the

findings recorded by the Central Vigilance Commission, are made available, and they require initiation of further action, it would be open to the respondents to deal with the same, in accordance with law.

For the reasons recorded above, we find no merit in the instant writ petition and the same is dismissed.

(J.S.KHEHAR)
JUDGE

April 19, 2007
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(L.N.MITTAL)
JUDGE